

REMARKS

I. Amendments to the Claims:

Claims 1-74 were pending in the instant application.

Claims 1-4 and 6-74 were withdrawn as directed to a non-elected invention.

Applicants have canceled claims 1-4 and 6-74 without prejudice. Applicants reserve the right to pursue the subject matter of these claims in this or a future related application.

Claim 5 has been amended herewith. Support for the amendment can be found throughout the application as filed, for example at pages 17-18. Accordingly, no new matter has been added.

Upon entry of the instant amendments to the claims, claim 5 will be pending and under examination in this application.

II. Rejections Under 35 U.S.C. § 112, First Paragraph, Enablement:

Claim 5 was rejected under 35 U.S.C. § 112, first paragraph, for allegedly not being enabled (*see*, Office Action, pages 2-5).

The Office Action noted that the specification was enabling for an isolated nucleic acid encoding a polypeptide having at least 95% amino acid sequence identity with a polypeptide selected from the group consisting of: (a) a human or mouse CatSper3 protein; (b) at least a transmembrane domain of a human or mouse CatSper3 protein; (c) at least an extracellular loop of a human or mouse CatSper3 protein; and (d) at least a pore region of a human or mouse CatSper3 protein (*see*, Office Action, page 2).

Without acquiescing to this rejection, and solely to expedite prosecution, Applicants have amended claim 5 to recite the limitations suggested in the Office Action.

In view of the instant amendment to the claims, Applicants respectfully submit that claim 5 fully satisfies the enablement requirement. Accordingly, Applicants respectfully request that this rejection be reconsidered and withdrawn.

III. Rejections Under 35 U.S.C. § 112, First Paragraph, Written Description:

Claim 5 was rejected under 35 U.S.C. § 112, first paragraph, for allegedly failing to comply with the written description requirement (*see*, Office Action, pages 5-7). The Office

Action noted that the instant application only discloses the complete structure of human and mouse Catsper3 proteins.

Without acquiescing to this rejection, and solely to expedite prosecution, claim 5 has been amended herein. Amended claim 5 is drawn to an isolated nucleic acid encoding a polypeptide having at least 95% amino acid sequence identity with a polypeptide selected from the group consisting of: a human or mouse CatSper3 protein; at least a transmembrane domain of a human or mouse CatSper3 protein; at least an extracellular loop of a human or mouse CatSper3 protein; and at least a pore region of a human or mouse CatSper3 protein.

In view of the instant amendment to the claims, Applicants respectfully submit that claim 5 fully satisfies the written description requirement. Accordingly, Applicants respectfully request that this rejection be reconsidered and withdrawn.

CONCLUSION

Upon entry of the instant Amendment, claim 5 will be pending in this application.

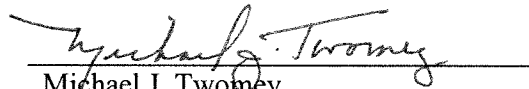
The Office Action indicated that claim 5 is free of the prior art. In view of the instant amendments to claim 5, Applicants respectfully submit that the grounds for the enablement and written description rejection over claim 5 have been overcome. Accordingly, Applicants respectfully submit that this application is now in condition for allowance.

A three month Petition for Extension of Time and authorization to charge the petition fee of \$555.00 is enclosed herewith. No additional fees are believed to be due in connection with this filing. However, please charge any payments due or credit any overpayments to our Deposit Account No. 08-0219, under Order No. 0110313.00138US2, from which the undersigned is authorized to draw.

The Examiner is encouraged to contact the undersigned by telephone to advance the prosecution of the present application.

Respectfully submitted,

Dated: *Nov. 5, 2008*



Michael J. Twomey
Reg. No. 38,349

WILMER CUTLER PICKERING HALE AND DORR LLP

60 State Street
Boston, MA 02109
Tel: (617) 526-6190
Fax: (617) 526-5000